

**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
LOS ANGELES SESSION  
DECEMBER 2 and 3, 2008**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, Third Floor, North Tower, Los Angeles, California on December 2 and 3, 2008.

**TUESDAY, DECEMBER 2, 2008—9:00 A.M.**

- |     |         |   |
|-----|---------|---|
| (1) | S151705 | Board of Chiropractic Examiners et al. v. Superior Court of Sacramento County (Carole Arbuckle, Real Party in Interest) |
| (2) | S150402 | Spielbauer (Thomas) v. County of Santa Clara et al.   |
| (3) | S052288 | People v. Hamilton (Bernard Lee) [Automatic Appeal]   |

**2:00 P.M.**

- |     |         |   |
|-----|---------|---|
| (4) | S136498 | People v. Scott (Andre Rene) et al.                     |
| (5) | S075726 | People v. Moore (Charles Edward) [Automatic Appeal]     |
| (6) | S073253 | People v. Gutierrez (Alfred Anthony) [Automatic Appeal] |

**WEDNESDAY, DECEMBER 3, 2008—9:00 A.M.**

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|-----|---------|---------------------------------------|
| (7) | S153846 | Meyer et al. v. Sprint Spectrum L.P.  |
| (8) | S155425 | In re Gomez (Sotero) on Habeas Corpus |
| (9) | S149890 | People v. Galland (Anthony Andrew)    |

**1:30 P.M.**

- |      |         |  |
|------|---------|--|
| (10) | S152667 | People v. Soper (James Daniel)                         |
| (11) | S058472 | People v. Bennett (Eric Wayne) [Automatic Appeal]      |
| (12) | S110206 | People v. Jackson (Michael Anthony) [Automatic Appeal] |

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GEORGE  
*Chief Justice*

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
LOS ANGELES SESSION  
DECEMBER 2 and 3, 2008**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**TUESDAY, DECEMBER 2, 2008—9:00 A.M.**

**(1) *Board of Chiropractic Examiners et al. v. Superior Court of Sacramento County (Carole Arbuckle, Real Party in Interest), S151705***

#07-258 Board of Chiropractic Examiners et al. v. Superior Court of Sacramento County (Carole Arbuckle, Real Party in Interest), S151705. (C052554; 148 Cal.App.4th 142; Superior Court of Sacramento County; 03AS00948.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents issues concerning whether, under the Whistleblower Protection Act (Gov. Code, § 8547 et seq.), a state employee may bring a civil action after suffering an adverse decision by the State Personnel Board without successfully seeking a writ of administrative mandate to set aside that decision.

**(2) *Spielbauer (Thomas) v. County of Santa Clara et al., S150402***

#07-161 Spielbauer (Thomas) v. County of Santa Clara et al., S150402. (H029345; 146 Cal.App.4th 914; Superior Court of Santa Clara County; CV031889.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case includes the following issue: If a public employee exercises his or her Fifth Amendment right against self-incrimination in a public employer's investigation of the employee's conduct, must the public employer offer immunity from prosecution before it can dismiss the employee for refusing to answer questions asked in connection with the investigation?

**(3) *People v. Hamilton (Bernard Lee)*, S052288 [Automatic Appeal]**

This matter is an automatic appeal from a judgment of death.

**2:00 P.M.**

**(4) *People v. Scott (Andre Rene) et al.*, S136498**

#05-215 *People v. Scott (Andre Rene) et al.*, S136498. (C044964; unpublished opinion; Superior Court of Sacramento County; 01F03583.) Petition for review after the Court of Appeal affirmed and modified and affirmed judgments of conviction of criminal offenses. The court limited review to the following issue: Did the trial court err in instructing the jury that all employees have constructive possession of their employer's property during a robbery, and, if so, what is the proper standard for determining whether an employee has constructive possession of the employer's property during a robbery?

**(5) *People v. Moore (Charles Edward)*, S075726 [Automatic Appeal]**

This matter is an automatic appeal from a judgment of death.

**(6) *People v. Gutierrez (Alfred Anthony)*, S073253 [Automatic Appeal]**

This matter is an automatic appeal from a judgment of death.

**WEDNESDAY, DECEMBER 3, 2008—9:00 A.M.**

**(7) *Meyer et. al. v. Sprint Spectrum L.P.*, S153846**

#07-366 *Meyer et al. v. Sprint Spectrum L.P.*, S153846. (G037375; 150 Cal.App.4th 1136; Superior Court of Orange County; 04CC06254.) Petition for review after the Court of Appeal affirmed a judgment of dismissal of a civil action. This case presents the following issues: (1) Has a person suffered "damage" within the meaning of the Consumer Legal Remedies Act (Civ. Code, § 1780, subd. (a)), such as to allow that person to bring an action under the act if that person is a party to an agreement containing an unconscionable term (see Civ. Code, § 1770, subd. (a)(19)), even though no effort has been made to enforce the unconscionable term? (2) Did plaintiffs have standing to seek declaratory relief?

**(8) *In re Gomez (Sotero) on Habeas Corpus, S155425***

#07-426 *In re Gomez (Sotero) on Habeas Corpus, S155425.* (B197980; 153 Cal.App.4th 1516; Superior Court of Los Angeles County; KA064573.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus. This case presents the following issue: Is a habeas corpus petitioner whose conviction became final after *Blakely v. Washington* (2004) 542 U.S. 296 but before *Cunningham v. California* (2007) 549 U.S.270, 127 S.Ct. 865, entitled to the benefit of the high court's decision in *Blakely*?

**(9) *People v. Galland (Anthony Andrew), S149890***

#07-145 *People v. Galland (Anthony Andrew), S149890.* (G034189; 146 Cal.App.4th 277; Superior Court of Orange County; 01CF2350.) Petition for review after the Court of Appeal reversed and remanded a judgment of conviction of criminal offenses. This case includes the following issues: (1) Must confidential information in a sealed search warrant affidavit, which was reviewed by the trial court pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948, be retained by the court rather than law enforcement in order to provide an adequate record for appeal? (2) Did the Court of Appeal properly invoke the exclusionary rule and suppress evidence obtained in execution of the search warrant as a sanction for the trial court's failure to retain the sealed affidavit although there was no evidence of police misconduct in obtaining or executing the warrant?

**1:30 P.M.**

**(10) *People v. Soper (James Daniel), S152667***

#07-257 *People v. Soper (James Daniel), S152667.* (D047875; nonpublished opinion; Superior Court of San Diego County; SCN193073.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: In concluding that the trial court abused its discretion when it denied defendant's motion to sever two murder counts for trial, did the Court of Appeal err in holding that evidence of each murder could not be admitted on the question of intent or motive as to the other murder because identity was at issue and the crimes were not cross-admissible on that point?

(11) ***People v. Bennett (Eric Wayne), S058472 [Automatic Appeal]***

This matter is an automatic appeal from a judgment of death.

(12) ***People v. Jackson (Michael Anthony), S110206 [Automatic Appeal]***

This matter is an automatic appeal from a judgment of death.